

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

ARIGNA TECHNOLOGY LIMITED,

Plaintiff,

v.

BAYERISCHE MOTOREN WERKE AG,
BMW OF NORTH AMERICA, LLC,

Defendants.

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CIVIL ACTION NO. 2:21-CV-00172-JRG

ORDER

Before the Court is Defendant BMW of North America, LLC's ("BMW NA") Motion to Dismiss Plaintiff's Complaint for Improper Venue and Failure to State a Claim (the "Motion"). (Dkt. No. 25). In the Motion, BMW NA argues that Plaintiff Arigna Technologies Limited ("Arigna") has failed to show proper venue under 28 U.S.C. § 1400(b) and therefore Arigna's claims must be dismissed.


The Court previously stayed the above-captioned case pending the Federal Circuit's guidance on the venue-related disputes common to BMW NA at issue in this case and defendants in other co-pending cases on the Court's docket. (*See* Case No. 2:21-cv-00054-JRG, Dkt. Nos. 138, 213, 230, 464; Case No. 2:22-cv-00034-JRG, Dkt. No. 1). The Federal Circuit issued its opinion regarding such venue-related issues on March 9, 2022 and vacated orders entered in the Western District of Texas denying motions to dismiss or transfer which raised substantially the same arguments at issue in this case. *In re Volkswagen Grp. Of Am., Inc.*, 28 F.4th 1203 (Fed. Cir. 2022) ("*In re Volkswagen*"). In the co-pending cases, Arigna and Defendants BMW NA as well as other venue-contestants filed Joint Status Reports on March 16 and 17, 2022 setting forth their

positions regarding the effect of *In re Volkswagen* on the overlapping venue disputes. (Dkt. No. 185; Case No. 2:22-cv-00034-JRG, Dkt. No. 16). Following the filing of the Joint Status Reports, the Court lifted the stay in this case and now considers the Motion, the related briefing, and the Federal Circuit's decision on substantially similar venue disputes at issue in *StratosAudio, Inc. v. Volkswagen Grp. Of Am., Inc.*, Case No. 6:20-CV-01121, 2021 WL 7367229 (W.D. Tex. Sept. 20, 2021).

In light of the Federal Circuit's guidance in *In re Volkswagen*, the Court finds as to BMW NA that venue is improper.¹ Accordingly, the Court finds that the Motion (Dkt. No. 25) should be and hereby is **GRANTED**. The Court **ORDERS** that the claims between Arigna and Defendants BMW of North America, LLC and Bayerische Motoren Werke AG are hereby **DISMISSED WITHOUT PREJUDICE**.

The Clerk of the Court is directed to **CLOSE** the above-captioned case as no parties or claims remain.

So ORDERED and SIGNED this 27th day of April, 2022.



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE

¹ The Court notes that the Federal Circuit specifically stated that it could “hardly disagree that when a distributor or manufacturer exercises the requisite level of control over a dealership for certain activities . . . an agency relationship can exist” such that venue under Section 1400(b) would be proper. *In re Volkswagen*, 28 F.4th at 1214. However, considering the record before it, the Court finds that the factual record here mirrors that before the Federal Circuit in *In re Volkswagen* and that Arigna has not shown the requisite level of control necessary to establish venue under an agency theory as explained by the Federal Circuit.